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Tammy Lightman

Appl No. : 10/790,375 Confirmation No. 9358

Applicant : Mary K. Boncutter, et al.

Filed : February 29, 2004

Title : WATER-RESISTANT AND FLOATABLE FOOTWEAR AND METHOD  
OF MANUFACTURE THEREFOR

TC/A.U. : 3728

Examiner : John T. Kavanaugh

Docket No. : 52052/MEG/R541

Customer No. : 23363

**RESPONSE TO OFFICE ACTION**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Post Office Box 7068  
Pasadena, CA 91109-7068  
June 20, 2005

Commissioner:

This is submitted in response to the Office action mailed December 20, 2004. Claims 10-33 are in the application.

On pages 2-3 of the Office action, claims 10, 11, 18-27 and 29-31 are rejected under 35 U.S.C. 102(a & e) as being anticipated by US 6,021,585 (Cole). The Examiner states that Cole teaches "immersing the inner structure in vinyl polymer to form an outer coating that is a water barrier." Applicant respectfully traverses the rejection. A similar argument was made by Examiner Stashic in the Reexamination of U.S. Patent No. 6,766,598, Serial No. 90/007172, which is a related case to the present application, both having the same disclosure. During an

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interview with Examiner Stashic on February 9, 2005, it is believed that the rejection was overcome.

Independent claims 10 and 18 of the present application recite the step of "immersing the inner structure in a vinyl polymer." It is not believed that Cole teaches this step.

The present application discloses footwear, particularly footwear suitable for water recreation. The footwear has an inner compressible structure to cushion the foot. A coating of vinyl polymer forms a water-resistant barrier and also provides comfort. See page 6 line 33 - page 7 line 7 of the application.

In contrast to the present invention, the Cole patent is concerned with "secure-fitting footwear," to be used, e.g., "under conditions of challenging terrain." Col. 1, lines 16-30 of the Cole patent. In addition, the Cole patent is intended to be "worn with socks." Col. 1, line 42. Cole does not discuss the use of sandals in or near water or of the desirability of a water-resistant barrier.

With regard to the Cole insole, the preferred embodiment is EVA covered with leather. Col. 4, lines 30-33. Nothing in the Cole patent was found to indicate that the covering is a flexible outer coating that is formed by immersing the inner structure in a vinyl polymer, as recited in claims 10 and 18 of the application. More likely, the leather is stitched together (see, e.g., Col. 3, lines 49-65, Col. 4, lines 6-29 and Col. 5, lines 4-12) and therefore is not formed by "immersing."

As an alternative embodiment, Cole describes using "a formed component with a non-leather material (such as those described above as substitute upper components)." Col. 5, lines

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4-11. Again, however, Cole does not teach that the non-leather material is formed by "immersing the inner structure in the vinyl polymer," as recited in claims 10 and 18.

The Examiner states on page 3 of the Office action that Cole discloses immersing the inner structure in vinyl polymer to form an outer coating that is a water-barrier and refers to Col. 5, lines 4-12 and Col. 4, lines 11-29. Here, Cole refers to optionally utilizing "finishes" applied by spray, dipping or hand painting processes. The "finish", however, is not a substitute for the leather or non-leather covering. Rather, the finish is an additional, optional step, that is applied after the leather or non-leather covering is applied to the formed component. There is no disclosure in Cole as to the type of finish to be applied and no disclosure that a coating of vinyl polymer is obtained by dipping. Accordingly, applicant respectfully submits that Cole does not anticipate claims 10 and 18 of the application.

The remaining claims depend from one of claims 10 and 18. Since the remaining claims depend from one of claims 10 and 18 and because they contain additional limitations further distinguishing these claims from the cited art when considered as a whole, these claims are also believed to be patentable.

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In view of the above, applicant respectfully requests reconsideration of the application and the allowance of claims 10-33.

Respectfully submitted,  
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